

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

ANGEL D. MORALES VALLELLANES

Plaintiffs,

v.

CIVIL NO. 97-2459 (JAG/GAG)

JOHN E. POTTER, et. al.

Defendants

DEFENDANTS' OPPOSITION TO PLAINTIFF'S MOTION TO STRIKE

TO THE HONORABLE COURT:

COME NOW, the Defendants through the undersigned attorneys to oppose Plaintiff's Motion to Strike (Docket Entry No. 247). In it plaintiff petitions from this Court that it strike Defendants' Docket Entries 244 and 245.

The undersigned concedes that apparently the date of June 15, 2005 was the one fixed by this Court for Defendants to file any Dispositive Motion. There was a good faith confusion on our part as to the date for filing such dispositive motion. Plaintiff's conduct in not providing discovery as the Federal Rules provides is partly to blame for such confusion. The record shows that from March 2005 until May 31, 2005 (Docket Entry No 241) there was an ongoing discovery controversy between the parties that finally ended when this Court found plaintiff in compliance with Defendant's discovery requests on May 31, 2005 (Docket Entry #241).

However, before May 31st, 2005, the Defendants had already requested an enlargement of time until September 30th, 2005, within which to file the

dispositive motion. (See Docket Entry No. 229) The undersigned got confused with the convoluted discovery controversy caused by the Plaintiff that we failed to realize that at Docket Entry #230, the Court granted Defendant's Motion to Compel but extended all deadlines for just 10 days, when in the mind of the undersigned the Court had granted Defendants' Motion for Enlargement at Docket Entry No. 229 until September 30th, 2005 to file the dispositive motion. The undersigned was wrong, regrets this confusion and asks for the court's indulgence.

Defendants' Motion for Summary Judgment is a meritorious one, which disposes of plaintiff's long protracted complaint. Plaintiff has now had an ample opportunity to conduct discovery and from, Defendant's perspective, the case is now ripe for defendants motion for Summary Judgment and the dismissal of plaintiff's complaint.

In view of the above, Defendants respectfully request from this Honorable Court that it accept our apologies for the confusion in dates and proceed to consider the merits of Defendants' Motion For Summary Judgment.

WHEREFORE, the Defendant respectfully request from this Honorable Court that it deny Plaintiff's Motion to Strike and dismiss plaintiff's complaint with costs and attorney's fees taxed to plaintiff.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing document was filed with the Clerk of the Court using CM/ECF system, which will submit notification of such filing to: Miguel Miranda, Esq.

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RESPECTFULLY SUBMITTED in San Juan, Puerto Rico this 19th day of
September 2005.

H.S. GARCIA
United States Attorney

S/Fidel A. Sevillano Del Río
Fidel A. Sevillano Del Rio
U.S.D.C.-PR 117812
Assistant U.S. Attorney
District of Puerto Rico
Torre Chardon Building, Suite 1201
350 Carlos Chardon Street
Hato Rey, Puerto Rico 00918
Tel.: (787) 766-5656